

BOARD OF PAROLE HEARINGS
En Banc Decisions
Tuesday, September 16, 2014

CHANDLER, STEVEN	P-43473	Referred by Decision Review
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Motion: Affirm the June 18, 2014, denial of parole, and schedule a re-hearing for the sole purpose of recalculating the prisoner's base term and adjusted base term.

Motion by: **Garner**
Second by: **Turner**
Not Present:
Abstained:
Decision: Motion carried.

COPELAND, JAY	K-27866	Referred by Decision Review
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Motion: Affirm the June 12, 2014, denial of parole, and schedule a re-hearing for the sole purpose of recalculating the prisoner's base term and adjusted base term.

Motion by: **Peck**
Second by: **Richardson**
Not Present:
Abstained:
Decision: Motion carried.

FUENTES, ROBERT	C-88749	Penal Code section 1170(e)
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Motion: Decline to recommend to the court that the prisoner's sentence be recalled or the prisoner be resentenced based on a finding that the prisoner poses a current risk of dangerousness demonstrated by his pattern of violent behavior even in a controlled setting and his unresolved gang issues.

Motion by: **Labahn**
Second by: **Garner**
Not Present:
Abstained:
Decision: Motion carried.

Motion: Vacate the panel's May 28, 2014, decision to grant parole and schedule a new hearing for the reasons stated by the Governor in his August 22, 2014, request for en banc review, including the inmate's inability to explain why he reacted so violently during the life crime and his failure to appropriately address his anger issues.

Motion by: **Garner**

Second by: **Anderson**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Affirm the June 11, 2014, denial of parole, and schedule a re-hearing for the sole purpose of recalculating the prisoner's base term and adjusted base term.

Motion by: **Roberts**

Second by: **Zarrinnam**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Vacate the inmate's May 30, 2014, stipulation of unsuitability for parole based on new information regarding the inmate's medical status.

Schedule a new hearing to consider the inmate's updated medical diagnosis.

Motion by: **Richardson**

Second by: **Roberts**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Disapprove the August 5, 2014, decision and schedule a re-hearing on the next available calendar due to the Board's failure to comply with Penal Code section 3041.5(a)(4) (statutory requirement to record the hearing).

Motion by: **Singh**

Second by: **Peck**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Disapprove the June 11, 2014, decision and schedule a re-hearing on the next available calendar due to the Board's failure to comply with Penal Code section 3042(c) (statutory requirement to record findings and reasons for decision).

Motion by: **Turner**

Second by: **Roberts**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Decline to recommend to the court that the prisoner's sentence be recalled or the prisoner be resentenced based on a finding that the prisoner poses a current risk of dangerousness demonstrated by:

the nature and recency of his 2012 commitment offenses of rape with force, penetration with force against victim's will, use of a firearm during a specified sex offense, false imprisonment, criminal threat to cause great bodily injury, assault with a deadly weapon, and first degree burglary;

the fact that he retains the ability to perform his activities of daily living and remains ambulatory (he intermittently uses a wheelchair to move throughout the medical unit); and

the fact that the inmate is required to register as a sex offender pursuant to Penal Code section 290 and his only residence plan is to live in a home with his mother and two nieces ages 17 and 18.

Motion by: **Montes**

Second by: **Richardson**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Decline to recommend to the court that the prisoner's sentence be recalled or the prisoner be resentenced based on a finding that the prisoner poses a current risk of dangerousness demonstrated by:

the inmate's continued ability to ambulate with the assistance of a walker;

the fact that his only residence plan is to live out of state in a home with firearms; and

the Board's continued concern with the inmate's anger management issues.

Motion by: **Peck**

Second by: **Fritz**

Not Present:

Abstained:

Decision: Motion carried.

Motion: Recommend to the court that the prisoner's sentence be recalled, or the prisoner be resentenced, based on the board's finding that the prisoner is terminally ill with an incurable disease that would produce death within six months and the conditions under which the prisoner would be released or receive treatment (to live with his friend in her home in Minnesota and receive care through community resources such as hospice and the Veterans' Administration) would not pose a threat to public safety.

Motion by: **Fritz**

Second by: **Anderson**

Not Present:

Abstained:

Decision: Motion carried.

KENNEDY, JAMES**D-59009****Referred by Decision Review**

Motion: Affirm the June 11, 2014, denial of parole, and schedule a re-hearing for the sole purpose of recalculating the prisoner's base term and adjusted base term.

Motion by: **Singh**

Second by: **Labahn**

Not Present:

Abstained:

Decision: Motion carried.

LACKEY, NOVIS**V-29177****Penal Code section 1170(e)**

Motion: Recommend to the court that the prisoner's sentence be recalled, or the prisoner be resentenced, based on the board's finding that the prisoner is terminally ill with an incurable disease that would produce death within six months and the conditions under which the prisoner would be released or receive treatment (to live with his daughter and son-in-law and receive additional care as needed from hospice care at a local medical center) would not pose a threat to public safety.

Motion by: **Roberts**

Second by: **Labahn**

Not Present:

Abstained:

Decision: Motion carried.

LORD, CARMEN**X-37707****Governor-Referred pursuant to
Penal Code section 3041.1**

Motion: Affirm the panel's May 22, 2014, decision to grant parole based on a finding that the inmate no longer poses an unreasonable risk of danger to the public, as articulated in the panel's proposed decision.

Motion by: **Turner**

Second by: **Fritz**

Not Present:

Abstained:

Decision: Motion carried.

**MALDONADO,
GABRIELLA**

W-43603

Referred by Decision Review

Motion: Vacate the panel's July 10, 2014, decision to grant parole and schedule a new hearing based on new information concerning the inmate's use of an external website and the resulting relationships with men who provide her with financial support.

Motion by: **Labahn**

Second by: **Garner**

Not Present:

Abstained:

Decision: Motion carried.

OTERO, RICKY

T-17022

Referred by Decision Review

Motion: Affirm the June 5, 2014, denial of parole, and schedule a re-hearing for the sole purpose of recalculating the prisoner's base term and adjusted base term.

Motion by: **Roberts**

Second by: **Peck**

Not Present:

Abstained:

Decision: Motion carried.

ROBISON, CARL

K-27060

**Governor-Referred pursuant to
Penal Code section 3041.1**

Motion: Refer for a rescission hearing to consider whether the panel that granted parole on May 13, 2014, committed a fundamental error resulting in the improvident grant of parole by failing to adequately consider whether the inmate's rules violations did not constitute pornography and the implausibility of the inmate's version of the life crime.

Motion by: **Peck**

Second by: **Richardson**

Not Present:

Abstained:

Decision: Motion carried.

ROSALES, DAVID**J-99296****Referred by Decision Review**

Motion: Affirm the June 11, 2014, denial of parole, and schedule a re-hearing for the sole purpose of recalculating the prisoner's base term and adjusted base term.

Motion by: **Zarrinnam**

Second by: **Anderson**

Not Present:

Abstained:

Decision: Motion carried.

SEWELL, TERRY**T-45639****Governor-Referred pursuant to
Penal Code section 3041.1**

Motion: Affirm the May 28, 2014, decision to grant parole based on a finding that the inmate no longer poses an unreasonable risk of danger to the public, as articulated in the panel's proposed decision.

Motion by: **Richardson**

Second by: **Fritz**

Not Present: **Peck**

Abstained:

Decision: Motion carried.

TYLER, ELONZA**K-57476****Referred by Decision Review**

Motion: Having considered the impact statements of the victims and their representative at today's Executive Meeting, vacate the panel's June 12, 2014, decision and schedule a new hearing following an investigation into the allegations of post-conviction harassment by the inmate of at least one victim as articulated at the Executive Meeting.

Motion by: **Peck**

Second by: **Montes**

Not Present:

Abstained:

Decision: Motion carried.